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*Virginia Network for
Victims and Witnesses
of Crime, Inc.*

2021 General Assembly Wrap Up:

Legislative Priorities and Upcoming Policy Changes

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2021 was a busy and formative time for criminal justice and public safety in the Virginia legislature. With the summer's special session as a backdrop, the General Assembly submitted over 1,500 bills by January 13th. By Sine Die, 556 made their way to Gov. Northam's desk. 91 of those bills were referred to the House Courts of Justice committee and 83 landed in the Senate Judiciary alone. The majority party focused on continuing the work from the summer's special session on criminal justice reforms. The Virginia Victim Assistance Network (VVAN) found our voice by being the experts in the room on victims' experiences and rights, ensuring smart policy focused on restorative practices.

We worked diligently and quickly to identify our priorities. Thanks to the dedicated advocates, victims, and others, VVAN held over 120 direct lobbying meetings with legislators, staff, stakeholders, and executive agency administrators. We supported several dozen bills promoting victim's rights, smart criminal justice reform, and addressing human trafficking and testified in over two dozen committee and subcommittee hearings. Did I mention this is all over Zoom? Many thanks to Robin Bostic and Cristi Lawton, without whom many of the advancements detailed below would still be on the cutting room floor.

Please find below a summary of our identified priority legislation from the 2021 Session and 2020 Special Session. You will find links to each bill for PDF versions, vote breakdowns, and effective dates, as applicable. I hope you find this helpful and hopeful; there is political and public appetite for new and novel policies to mitigate violence and address healing at a systemic level. We have so much to look forward to.

Warmly,

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Death Penalty Repeal

[SB 1165](#) (Surovell) and [HB 2263](#) (Mullin) abolishing the death penalty, including for those persons currently under a death sentence.

These bills **PASSED** the Senate (21-17) and House (57-41) and were signed into law on March 24th. Virginia had not utilized capital punishment, thanks in large part to the Capital Defenders office. This legislation abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law.

VVAN did not take a position on this bill. Every victim's experience is deeply individual and unique.

This is effective July 1, 2021.

Mandatory Minimum Sentences

[SB 1443](#) (Edwards) eliminated all mandatory minimum sentences of confinement from the Code of Virginia and providing a petition process for a person who was previously convicted. A House version, [HB 2331](#) (Mullin), narrowed the repeal to drug offenses only, complimenting the marijuana justice measures also being considered at the time.

Despite the Senate version passing the Senate and the House, it **FAILED TO PASS** in conference. Lawmakers could not come to a consensus on how far to take repealing mandatory minimum sentences. The Senate bill did away with mandatory sentences for almost all crimes in Virginia and the House pushed its own legislation that narrowed the focus to drug offenses. Virginia's State Crime Commission endorsed legislation to eliminate all mandatory minimum sentencing regardless of the crime to redirect sentencing discretion to judges and juries.

VVAN opposed SB 1443 and supported HB 2331, acknowledging drug offenses do not demand the same scrutiny.

Probation Reforms

[HB 2038](#) (Scott) This bill limits the amount of active incarceration a court can impose as a result of a revocation hearing for a probation violation.

This bill **PASSED** the House (57-42) and Senate (22-18) after some wordsmithing in the Courts of Justice committee and Criminal subcommittee regarding violations and sentencing. We took an active role to define "technical violation" to tease out probation violations that would endanger victims or witnesses. Those violations would be subject to active incarceration.

The bill provides that if the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation is that the defendant was convicted of a criminal offense or violated another condition other than a technical violation, the court may pronounce whatever sentence might have been originally imposed. The bill defines "technical violation" and provides specific limitations on the sentence a court may impose depending on whether the violation is a first, second, or third or subsequent technical violation. The bill also provides that a court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and any period of supervised probation shall not exceed five years from the release of

the defendant from any active period of incarceration. The bill also provides that a court must measure any period of suspension of sentence from the date of entry of the original sentencing order.

VVAN opposed this bill.

This is effective July 1, 2021.

Writ of Vacatur: Expunging Criminal Records for Victims of Trafficking

[HB 2133](#) (Delaney), allowing victims of trafficking to vacate and expunge criminal convictions. Many of those who have been trafficked were forced to commit crimes against their will. A vacatur statute would serve to clear wrongful convictions and expunge criminal records, making survivor access to resources like trauma counseling, housing, education, and employment easier.

Status: This bill **PASSED** the House (99-0) and the Senate (39-0) and was signed into law April 7, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Affirmative Defense for Victims of Sex Trafficking

[HB 2234](#) (Brewer) This bill provides an affirmative defense to prosecution for prostitution and keeping, residing in, or frequenting a bawdy place if, at the time of the offense leading to such charge, such person was a victim of sex trafficking, as defined in the bill, and (i) was coerced to engage in the offense through the use of force or intimidation or (ii) such offense was committed at the direction of another person other than the individual with whom the person engaged in the acts of prostitution or unlawful sexual intercourse for such money or its equivalent.

This bill **PASSED** the House (98-0) and Senate (39-0) and was signed into law March 24, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Reducing Offender Access to Firearms

[HB 1992](#) (Murphy) prohibiting a person who has been convicted of assault and battery of a family or household member from purchasing, possessing, or transporting a firearm. The bill also outlines that firearm prohibition expires three years after the date of conviction, at which point, the person's firearms rights are restored, unless they receive another disqualifying conviction.

This bill **PASSED** the House (54-46) and Senate (20-19) and was signed into law on April 15, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Parole Board Reform

[HB 2167](#) (Scott) This bill provides that the Department of Corrections shall set the release date for an inmate granted discretionary parole or conditional release no sooner than 30 business days from the date that the Department of Corrections receives notification from the Chairman of the Parole Board of the Board's decision to grant discretionary parole or conditional release, except that the Department of Corrections may set an earlier release date in the case of a terminally ill inmate granted conditional release.

The bill provides that in the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release or (ii) by telephone or other electronic means prior to release that a terminally ill inmate has been granted conditional release where death is imminent.

The bill requires that the monthly reports issued by the Board regarding actions taken on the parole of prisoners (a) be published on the fifteenth day of the month and (b) include the name of each prisoner considered for parole, the offense of which the prisoner was convicted, the jurisdiction in which such offense was committed, the amount of time the prisoner has served, whether the prisoner was granted or denied parole, and the basis for the grant or denial of parole

This bill **PASSED** the House (100-0) and Senate (40-0) and was enacted into law on April 7, 2021.

This is effective July 1, 2022.

Advisory Committee on Sexual and Domestic Violence

[HB 2317](#) (Robinson) This bill increases from 15 to 19 the total number of members of the Advisory Committee on Sexual and Domestic Violence by adding the Executive Director of the Virginia Victim Assistance Network and by increasing from six to nine the number of nonlegislative citizen members.

The bill streamlines the responsibilities and duties of the Advisory Committee to (i) promotion of appropriate and effective responses, services, and prevention for sexual assault and domestic violence across the Commonwealth and (ii) promotion of strong communication, coordination, and strategy at state, regional, and local levels.

The bill also reorganizes the Virginia Sexual and Domestic Violence Professional Standards Committee to consist of 12 non-legislative citizen members appointed by the Governor and three nonvoting members.

This bill was procedural and technical in nature, written and brought to the patron by the Advisory Committee.

This bill **PASSED** the House (99-0) and the Senate (39-0) and was signed into law March 18, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Dividing Prostitution Statute

[HB 2169](#) (Mundon-King) this bill reorganizes the statute penalizing prostitution into two distinct sections. The penalties for all offenses remain unchanged. The intention is to better distinguish between prostitution and solicitation of prostitution offenses. This bill is a recommendation of the Virginia State Crime Commission.

This bill **PASSED** the House (99-0) and Senate (39-0) and was signed into law March 18, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Automatic Expungement of Criminal Records

[HB 2113](#) (Herring) [SB 1339](#) (Lucas) This bill establishes a process for the automatic sealing of police and court records, defined in the bill, for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed.

The bill also allows a person to petition for the sealing of police and court records relating to certain convictions.

This bill **PASSED** the House (60-40) and Senate (23-17) and was signed into law April 7, 2021.

VVAN did not take a position on this bill.

The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill. Beginning July 1, 2021 when select records are mandated to be deleted, relevant agencies must have software and systems in place to expunge and automatically seal records by October 1, 2025.

Compensating Victims

[HB 1867](#) (Delaney) Provides that the requirement that the Virginia Workers' Compensation Commission find that police records show the crime was promptly reported no more than 120 hours after it occurred in order to award a claimant funds from the Criminal Injuries Compensation Fund does not apply to claims of sexual abuse.

Under current law, the exception to such requirement applies only to claims of sexual abuse that occurred while the victim was a minor.

This bill **PASSED** the House (94-6) and Senate (39-0) and was signed into law March 18, 2021.

VVAN supported this bill.

This is effective July 1, 2021.

Release and Review of Juvenile Serious Offenders

[Hb 1991](#) (Jones) This bill clarifies that the Department of Juvenile Justice may petition the court that committed a juvenile for a hearing for an earlier release of a juvenile when good cause exists for an

earlier release as permitted under current law and shall petition the committing court for a determination as to the continued commitment of each juvenile committed as a serious offender at least 60 days prior to the second anniversary of the juvenile's date of commitment and at least 60 days prior to each annual anniversary thereafter as required under current law, notwithstanding the terms of any plea agreement or commitment order.

This bill **PASSED** the House (55-41) and Senate (23-16) and was signed into law March 18, 2021.

VVAN opposed this bill. Victims count on offenders to serve the time they were sentenced. Victim peace of mind and safety rely on these expectations and victims look to the justice system to enforce its sentencing accordingly.

This is effective July 1, 2021.